1. **Introduction**

1.1 The Waste Planning Authorities of the South East of England comprise the following authorities:

   - Bracknell Forest Council
   - Brighton & Hove City Council
   - Buckinghamshire County Council
   - East Sussex County Council
   - Hampshire County Council (incorporating Southampton City, Portsmouth City and New Forest National Park Waste Planning Authorities)
   - Isle of Wight Council
   - Kent County Council
   - Medway Council
   - Milton Keynes Council
   - Oxfordshire County Council
   - Reading Borough Council
   - Royal Borough of Windsor and Maidenhead
   - Slough Borough Council
   - South Downs National Park Authority
   - Surrey County Council
   - West Berkshire Council
   - West Sussex County Council
   - Wokingham Borough Council

1.2 These authorities are each responsible for planning for sustainable waste management in their areas and in particular for the preparation of waste local plans. A waste local plan can cover the area of a single waste planning authority or a larger area administered by more than one waste planning authority where they decide to act together.

1.3 Section 110 of the Localism Act sets out a duty to cooperate in relation to planning of sustainable development, under which planning authorities are required to engage constructively, actively, and on an ongoing basis in any process where there are crossboundary issues or impacts. This includes the preparation of development plan documents so far as relating to a “strategic matter” such as waste management. This duty to cooperate therefore applies to the preparation of waste local plans.

1.4 In addition, the National Planning Policy Framework (NPPF) refers to planning authorities having a duty to cooperate on planning issues that cross administrative boundaries, particularly those which relate to strategic priorities defined in paragraph 156 which includes waste management infrastructure. The NPPF expects local planning authorities “to demonstrate evidence of having effectively cooperated to plan for issues with crossboundary impacts” (paragraph 181). The ‘tests of soundness’ (paragraph 182) also require planning authorities to work with their neighbours: to be “positively prepared” a plan should seek to meet “unmet requirements from neighbouring authorities where it is
reasonable to do so”; and to be “effective” a plan should be “based on effective joint working on crossboundary strategic priorities”.

2. **Purpose**

2.1 The purpose of this Memorandum is to underpin effective cooperation and collaboration between the Waste Planning Authorities of the South East of England in addressing strategic cross-boundary issues that relate to planning for waste management.

2.2 It sets out matters of agreement, reflecting the spirit of co-operation between the Parties to the Memorandum. It is, however, not intended to be legally binding or to create legal rights.

3. **Parties**

3.1 The Memorandum is agreed by the following Councils: (to be completed as agreements are confirmed).

4. **Aims**

4.1 The memorandum has the following broad aims:

- to ensure that planned provision for waste management in the South East of England is co-ordinated, as far as is possible, whilst recognising that provision by waste industry is based on commercial considerations; and
- to ensure that the approach to waste planning throughout the South East is consistent between authorities.

5. **Limitations**

5.1 The Parties to the Memorandum recognise that there will not always be full agreement with respect to all of the issues on which they have a duty to cooperate. For the avoidance of doubt, this Memorandum shall not fetter the discretion of any of the Parties in relation to any of its statutory powers and duties, and is not intended to be legally binding.

5.2 The Parties recognise that for a majority of existing waste management facilities, there are no restrictions on the handling of waste that has arisen outside their authority area.

6. **Background**

6.1 The disposal of waste to land (both landfill and landraise) is at the bottom of the Waste Hierarchy as defined in the "National Planning Policy for Waste” 2014 (NPPW) and associated Planning guidance. It is the least desirable form of waste management in environmental terms.

6.2 National Planning Policy for Waste recognises that there will be a need for new waste management facilities and that these need to be planned for. It states that:
“Positive planning plays a pivotal role in delivering this country’s waste ambitions through:

- delivery of sustainable development and resource efficiency, including provision of modern infrastructure, local employment opportunities and wider climate change benefits, by driving waste management up the waste hierarchy (see Appendix A);

- ensuring that waste management is considered alongside other spatial planning concerns, such as housing and transport, recognising the positive contribution that waste management can make to the development of sustainable communities;

- providing a framework in which communities and businesses are engaged with and take more responsibility for their own waste, including by enabling waste to be disposed of or, in the case of mixed municipal waste from households, recovered, in line with the proximity principle;

- helping to secure the re-use, recovery or disposal of waste without endangering human health and without harming the environment; and

- ensuring the design and layout of new residential and commercial development and other infrastructure (such as safe and reliable transport links) complements sustainable waste management, including the provision of appropriate storage and segregation facilities to facilitate high quality collections of waste.

6.3 There will, however, continue to be a need for some landfill capacity to deal with waste in the South East, particularly in the short and medium term before new recycling and treatment facilities are built and become operational.

6.4 Paragraph 263 of the Government Review of Waste Policy in England 2011 states that “there is the need for councils to work together and look at waste management needs across different waste streams and across administrative boundaries.” It further states that “There is no requirement for individual authorities to be self-sufficient in terms of waste infrastructure and transporting waste to existing infrastructure to deliver the best environmental solution should not be considered a barrier.”

7. **Agreement between the Parties**

7.1 The Parties recognise that there will be a degree of cross-boundary movement of waste. In light of this, the Parties will plan on the basis of net self-sufficiency which assumes that within each waste local plan area the planning authority or authorities will plan for the management of an amount of waste which is equivalent to the amount arising in that plan area. All parties accept that when using this principle to test policy, it may not be possible to meet this requirement in full, particularly for hazardous and other specialist waste streams.

7.2 In keeping with the principle of net self-sufficiency for each waste local plan area, the Parties will plan on the basis that no provision has to be made in their waste local plans to meet the needs of any other waste local plan area which are basing their waste policies on achieving the principle of net self-sufficiency.
There may be cases where some waste will not be planned to be managed within a waste plan area because of difficulty in delivering sufficient recovery or disposal capacity. Provision for unmet requirements from other authority areas may be included in a waste local plan, in line with paragraph 182 of the NPPF, but any provision for facilities to accommodate waste from other authorities that cannot or do not intend to achieve net selfsufficiency will be a matter for discussion and agreement between authorities and is outside the terms of this Memorandum.

The parties note that there may be some kinds of waste that cannot be managed within their own plan area, either in the short term or within the relevant plan period. These may include hazardous wastes and radioactive wastes. Where provision for the management of these wastes will be planned for in a different waste planning authority area, this will need to be considered between the relevant authorities.

The Parties will work together in the consideration of how to plan for the implications arising from the management of waste from London and any other authority areas that are not party to this Memorandum.

The Parties agree that the challenge to be addressed is to implement the waste hierarchy and to enable better, more sustainable, ways of dealing with waste to reduce the current dependence on landfill.

The Parties agree to continue to positively plan to meet any shortfalls in recovery and disposal capacity in their areas and to enable the delivery of new facilities. This includes making appropriate provision in their local plans, including, as required, the allocation of sites for new recycling and other recovery facilities.

The Parties recognise that private sector businesses (and, therefore, commercial considerations) will determine whether new merchant waste management recycling and treatment facilities will be built and what types of technology will be used.

Actions and Activities

The Parties to this Memorandum will continue to share knowledge and information relevant to strategic cross-boundary issues relating to waste planning including the matters set out in the Agreement in Section 7.

The Parties will seek to ensure that the matters in the Agreement are reflected in the waste local plans that they prepare (including, in the case of unitary authorities, any local plans that include waste policies); this includes the allocation of sites.

The Parties will take account of the matters in the Agreement in the consideration of planning applications for waste management.

The Parties will continue to liaise with each other in relation to the general matters set out in the Agreement, in particular, the implications of the decline in permitted landfill capacity in the region.

Liaison
9.1 Appropriate officers of each Party to this Memorandum will liaise formally through the South East Waste Planning Advisory Group (SEWPAG) which normally meets four times a year. As appropriate, the Memorandum will be formally discussed at SEWPAG meetings and any decisions and actions relating to it will be recorded in the minutes.

10. **Timescale**

10.1 The Memorandum of Understanding is for a three-year period to 31st December 2020.

10.2 It will be reviewed annually by the Parties to establish how effective it has been and whether any changes are required. The results of the review will be reported at SEWPAG meetings and recorded in the minutes.

Local Authority signature to the Memorandum of Understanding between the Waste Planning Authorities of the South East of England April 2017

Name of Signatory ……………………………………………………………………………………..

Position ………………………………………………………………………………………………

On behalf of (Local Authority)……………………………………………………………………

Signature ……………………………………………………………………………………………….. Date…………………14/06/2017